

§§ 302.25 through 302.32: Oral argument before the administrative law judge, the filing of proposed findings and conclusions for the administrative law judge or for the DOT decisionmaker, a recommended decision of the administrative law judge, a tentative decision of the DOT decisionmaker, a petition for discretionary review of or exceptions to an initial decision or recommended decision, and the filing of briefs with the DOT decisionmaker, or oral argument before the DOT decisionmaker.

§ 302.35 Shortened procedure.

In cases where a hearing is not required by law, §§ 302.23 through 302.33, relating to prehearing, hearing, and post-hearing procedures, shall not be applicable except to the extent that DOT shall determine that the application of some or all of such rules in the particular case will be conducive to the proper dispatch of its business and to the ends of justice.

§ 302.36 Final decision of DOT.

When a case stands submitted to the DOT decisionmaker for final decision on the merits, he or she will dispose of the issues presented by entering an appropriate order which will include a statement of the reasons for his or her findings and conclusions. Such orders shall be deemed "final orders" within the purview of § 302.37(a), in the manner provided by § 302.22a.

§ 302.37 Petitions for reconsideration or review by the DOT decisionmaker.

(a) *DOT orders subject to reconsideration; time for filing.* Unless an order or a rule of the Department specifically provides otherwise, any interested person may file a petition for reconsideration, of any interlocutory order issued by the Department which institutes a proceeding. Any party to a proceeding, unless an order or rule of the Department specifically provides otherwise, may file a petition for reconsideration, rehearing, or reargument of (1) final orders issued by the Department, or (2) an interlocutory order which defines the scope and issues of a proceeding or suspends a provision of a tariff on file with the Department. Unless the time

is shortened or enlarged by the Department, petitions for reconsideration shall be filed, in the case of a final order, within twenty (20) days after service thereof, and, in the case of an interlocutory order, or a final decision described in § 302.1757 within ten (10) days after service. However, neither the filing nor the granting of such a petition shall operate as a stay of such final or interlocutory order unless specifically so ordered by the DOT decisionmaker. Within ten (10) days after a petition for reconsideration, rehearing, or reargument is filed, any party to the proceeding may file an answer in support of or in opposition. Motions for extension of time to file a petition or answer, and for leave to file a petition or answer after the time for the filing has expired, will not be granted except on a showing of unusual and exceptional circumstances, constituting good cause for movant's inability to meet the established procedural dates.

(b) *Contents of petition.* A petition for reconsideration, rehearing, or reargument shall state, briefly and specifically, the matters of record alleged to have been erroneously decided, the ground relied upon, and the relief sought. If a decision by the Secretary or Deputy Secretary is requested, the petition should describe in detail the reasons for such request and specify any important national transportation policy issues that are presented. If the petition is based, in whole or in part, on allegations as to the consequences which would result from the final order, the basis of such allegations shall be set forth. If the petition is based, in whole or in part, on new matter, such new matter shall be set forth, accompanied by a statement to the effect that petitioner, with due diligence, could not have known or discovered such new matter prior to the date the case was submitted for decision. Unless otherwise directed by the DOT decisionmaker upon a showing of unusual or exceptional circumstances, petitions for reconsideration, rehearing or reargument or answers thereto which exceed twenty-five (25) pages (including appendices) in length shall not be accepted for filing by the Office of the Documentary Services.